STATE OF MICHIGAN

DEPARTMENT OF LABOR & ECONOMIC GROWTH

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX
Petitioner **File No. 91345-001**

v

Time Insurance Company
Respondent
_____/

Issued and entered
this 14th day of October 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On August 4, 2008, XXXXX, authorized representative of XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on August 11, 2008.

The Commissioner notified Time Insurance Company (Time) of the external review and requested the information used in making its adverse determination. The Commissioner received the information from Assurant Health (which markets Time's products) on August 18, 2008. The issue here can be decided by an analysis of Time's medical certificate, the contract defining the Petitioner's health benefits. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II
FACTUAL BACKGROUND

The Petitioner was covered under a nongroup, nonrenewable short term medical certificate (Form 136) issued by Time that became effective on July 1, 2007, and terminated on November 3, 2007. She had a doctor's office visit on July 19, 2007, and an upper and lower endoscopy on July 25, 2007. Time denied coverage for this care. The Petitioner disagreed with Time's decision and appealed. Time reviewed the claim but at the conclusion of the internal grievance process maintained its denial. A final adverse determination was sent June 4, 2008.

III
ISSUE

Were the Petitioner's July 19, 2007, office visit and July 25, 2007, endoscopies covered benefits under her certificate?

IV
ANALYSIS

Petitioner's Argument

The Petitioner was seen by her doctor on June 29, 2009. The doctor recommended she see a gastrointestinal specialist. She saw the specialist on July 19, 2007, and he ordered a colonoscopy and endoscopy which were performed on July 25, 2007. Time did not cover the office visit or the procedures performed in July 2007 because they considered this care treatment of a pre-existing condition. The Petitioner was covered by M-Care through June 30, 2007, and by Time beginning July 1, 2007. The Petitioner argues that since she had continuous coverage the pre-existing condition exclusion should not apply.

Therefore, she believes that Time is required to cover her care provided on July 19 and 25, 2007. In addition the Petitioner says she was given a diagnosis of hemorrhoids after the July 25, 2007, tests and therefore she does not think the condition was pre-existing.

Time Insurance Company's Argument

The Petitioner's certificate contains a pre-existing condition limitation on page 15. It says:

> We will not pay benefits during Your Benefit Period for charges incurred due to a Pre-Existing Condition**.**

"Pre-existing condition" is defined on page 6 as:

> A medical condition due to Sickness or Injury:
>
> 1. For which the Insured received medical advice, diagnosis or care or for which treatment was recommended or received from a provider within the 5-year period immediately preceding the Effective Date of coverage, regardless of whether the condition was diagnosed or not diagnosed; or
>
> 2. That produced signs or symptoms within the 5-year period immediately preceding the Effective Date of coverage.
>
> The signs or symptoms must have been significant enough to establish manifestation or onset by one of the following tests:
>
> a. The signs or symptoms would have allowed one learned in medicine to make a diagnosis of the disorder; or
> b. The signs or symptoms should have caused an ordinarily prudent person to seek diagnosis or treatment.

Time says the Petitioner went to the doctor on May 29, 2007, one month before the effective date of her coverage with Time. Her complaints included blood in stool, fatigue, bowel irregularity, constipation alternating with diarrhea, and some indigestion problems. Her doctor recommended limiting dairy products. She went back to her doctor in June 2007 and he recommended she see a gastroenterologist.

Time indicates that the Petitioner was treated for gastrological symptoms before the July 1, 2007, effective date and therefore her doctor's office visit and upper and lower endoscopy [colonoscopy] in July 2007 were treatment of a pre-existing condition as defined in the certificate and are not a covered benefit. Time also indicated that the fact that the Petitioner had continuous medical care coverage does not eliminate the pre-existing condition exclusion in an individual short term medical plan.

Commissioner's Review

The Petitioner went to her doctor in late May and late June 2007 complaining of gastrointestinal problems. This was shortly before the July 1, 2007, effective date of her Time Insurance certificate. Her doctor recommended she see a gastroenterologist and have further tests. She saw the specialist and had the upper and lower endoscopies in July 2007. These services meet the definition of a pre-existing condition since they were follow up treatment for the gastrointestinal problems she experienced within the 5-year period immediately preceding her coverage with Time. The definition of pre-existing condition in the certificate is clear that a condition does not have to be diagnosed prior to the effective date, only that symptoms exist or treatment be recommended or sought. In the Petitioner's case she had symptoms, and treatment was recommended.

The fact that the Petitioner had continuous health care coverage does not change the pre-existing condition exclusion in an individual short term commercial insurance policy. The Commissioner concludes and finds that the Petitioner's care in July 2007 for her gastrointestinal problems was treatment of a pre-existing condition and therefore excluded from coverage.

V
ORDER

The Commissioner upholds Time Insurance Company's adverse determination of June 4, 2008. Time is not required to provide coverage for the Petitioner's July 19, 2007, office visit and July 25, 2007, upper and lower endoscopy.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.